APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,149	03/13/2001	Fabienne Coez	PF980035	5717

24498	7590	10/07/2004

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EXAMINER
BARQADLE, YASIN M

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/719,149	COEZ ET AL.
	Examiner	Art Unit	
	Yasin M Barqadle	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>06 July 2004</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-14</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-5 and 7-14</u> is/are rejected.

7) ☒ Claim(s) <u>6</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>06 July 2004</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Response to Amendment

Applicant's arguments filed on July 6, 2004 have been considered
and are deemed persuasive. However, they are moot in view of the
new ground(s) of rejection.

- Claims 1-13 are presented for examination.

- Claims 1 and 3 have been amended.

On pages 6-8, Applicant argues that that Kindell et al do not
teach the amended limitation of claim 1 that focuses on the
possibility of an application negotiating the access to a
resource already reserved by another application as a function
of the respective priority levels of the applications.
Examiner agrees that Kindell does not teach the limitation as
amended. However Kuftedjian et al teaches a process where an
application sends a NM unlock request of a resource, the
request is analyzed and a determination is made based on the
status of the existing NM and priority levels of the
requesting application and the already existing network mutex
on the resource. The NM request is either accepted
(successfully unlocked) or rejected (unlock failure) col. 7,
lines 33 to col. 8, lines 20 and col. 8, lines 47 to col. 9,
line 8].

Allowable Subject Matter

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being
anticipated by Kuftedjian et al U.S. Patent No. (6105057).

As per claim 1, Kuftedjian et al teach a process for managing
priorities of access of communication network (fig. 1), the
process comprising the steps:

of allocating, to each application, a level of priority of
access to the resources of the network (table 1, col. 5), the
said levels comprising at least two levels of priority [table 1
and col. 5, lines 33-36 and col. 8, lines 58-64];

of negotiating, by a first application, of abandonment, for
the benefit of the first application, of a source by a second
application of the and the priorities levels of the two
applications , wherein the second application agrees to abandon
the resource or refuse to abandon the resource, and wherein said
negotiation is carried out as a function of the respective
priority levels the first and the second applications [an
application sends a NM unlock request of a resource, the request
is analyzed and a determination is made based on the status of
the existing NM and priority levels of the requesting application
and the already existing network mutex on the resource. The NM
request is either accepted (successfully unlocked) or rejected
(unlock failure) col. 7, lines 33 to col. 8, lines 20 and col. 8,
lines 47 to col. 9, line 8].

As per claim 2, Kuftedjian et al teach the process according to claim 1, wherein a resource simultaneously allows accesses by at least N applications, N being greater than or equal to 1 [fig. 2 and col. 6, lines 5-11].

As per claim 3, Kuftedjian et al teach the process according to claim 1, further comprising the step of having the first application pre-empt the second application regarding access to the resource as a function of the priority levels of the first and second applications and as a function of the result of the negotiation phase (col. 7, lines 33 to col. 8, lines 20 and col. 8, lines 47 to col. 9, line 8), and wherein the priority levels include a first level for application not under the direct control of a user (batch mode application) and a second level for an application which can be controlled directly by a user (GUI applications) [col. 5, lines 33-36 and col. 8, lines 58-64].

As per claim 4, Kuftedjian et al teach the process according to claim 3, wherein the phase of preemption of an application having the second priority level by an application having the first priority level is always precede by a negotiation phase [network mutex unlock request is formulated in order to relinquish or remove an existing NM on a resource col. 7, lines 33 to col. 8, lines 20 and col. 8, lines 47 to col. 9, line 8].

As per claim 5, Kuftedjian et al teach the process according to claim 3, wherein the phase of preemption of an application having the second priority level by an application having the second priority level is always preceded by a negotiation phase [network mutex unlock request is formulated in order to relinquish or remove an existing NM on a resource col. 7, lines 33 to col. 8, lines 20 and col. 8, lines 47 to col. 9, line 8].

As per claim 7, Kuftedjian et al teach the process according to claim 3, wherein the there is preemption directly without negotiation if the security level of the first application is higher than the security level of the second application [col. 5, lines 65 to col. 6, line 11].

As per claim 8, Kuftedjian et al teach the process according to claim 2, wherein an application making an attempt to reserve access for a resource already reserved by N client applications is place in a queue, standing by for the freeing of the resource by one of the N client applications [col. 8, lines 29-57].

As per claim 9, Kuftedjian et al teach the process according to claim 8, wherein an application is placed on standby in a queue only if this is specified by this application in its access request [[col. 8, lines 29-57].

As per claim 10, Kuftedjian et al the process according to claim
1, furthermore including the steps:

of allocating a primary level of rights of access, for a
given resource, to and application having requested access to
this resource first [col. 5, lines 33-36 and col. 8, lines 58-
64),

of allocating a secondary level of rights of access, for
other applications reserving the said resources, the rights of
access of the secondary level being such that they do not
interfere with the rights of access of the primary level [col. 5,
lines 33-36 and col. 8, lines 58-64].

As per claim 11, Kuftedjian et al teach the process according to
claim 10, wherein, following a command transmitted by an
application having a secondary level right of access to a
resource, the resource itself determines whether this command
does or does not interfere with the access rights of the primary
level [Col. 13, lines 39-61 and col. 19, lines 15-26].

As per claim 12, Kuftedjian teach the process according to claim
10, wherein a resource agrees to any command received from the
application having a primary level right of access to this
resource, even if the execution of the command interferes with
the commands previously received from an application having a
secondary level of right of access [Col. 8, line 58 to col. 9,
lines 21].

As per claim 13, Kuftedjian et al teach the process according to claim 10, wherein preemption and, as appropriate negotiation, is authorized only so as to force abandonment of and access held by an application having a primary access level [Col. 7, lines 11-42 and col. 8, line 47-67].

As per claim 14, Kuftedjian et al teach the process according to claim 3, further comprising the step of requesting authorization of a user to abandon a resource reserved by an application of the second priority level during the negotiation step [col. 5, lines 33-36; col. 7, lines 33 to col. 8, lines 20 and col. 8, lines 47-67].

Conclusion

ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
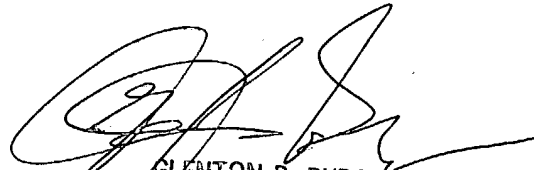
The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 703-305-5971. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Yasin Barqadle

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